

MINUTES

**TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD MEETING
RUTH NEFF CONFERENCE ROOM
17TH FLOOR, L & C TOWER
401 CHURCH STREET
NASHVILLE, TENNESSEE
DECEMBER 5, 2006**

Board Members Present:

Mr. Jack O'Grady, Chairman
Mr. Kenneth Donaldson, Vice-Chairman
Mr. Mike Apple, Technical Secretary
Ms. Elaine Boyd
Mr. Wilton Burnett
Dr. Greg Nail
Ms. Sherry Sloan
Ms. Julia Williams

Board Members Absent:

Mr. John Barker
Ms. Melissa Bryant
Mr. Knox Horner

After noting a quorum was present, Mr. O'Grady called the meeting to order at 9:10 a.m.

I. SOLID WASTE DISPOSAL CONTROL BOARD MATTERS

A. Approval of Minutes from October 3, 2006 Board Meeting

There being no discussion/questions regarding the Minutes, Chairman O'Grady asked for a Motion to approve the Minutes. Mr. Donaldson moved for approval, Ms. Boyd seconded. The Minutes were unanimously approved.

II. GENERAL BUSINESS/STAFF REPORTS

Chairman O'Grady introduced the newest member to our Board, Ms. Julia Williams. She was appointed to represent the Tennessee Chamber of Commerce & Industry (Manufacturing) and works for Eastman Chemical Company.

III. REGULATORY MATTERS

A. Hazardous Waste Regulatory Update Revision 'z'

Mr. Jerry Ingram gave a brief update about Revision 'z'. It became effective September 9, 2006. It has been placed on the web site. The Table of Contents also has been updated. There are a number of copies of Revision 'z' available.

There was a discussion about whether or not staff should 'mail' such large quantities of information to the Board when it is actually available on line. Mr. Burnett made a motion that the staff inform the Board Members of all updates and where it is available for review on-line, but for the sake of efficiency and conservation, mass mailing of such quantities not be done. Ms. Sloan seconded. The Board agreed.

Mr. Ingram's intent is to mail a copy to all the treatment, storage, and disposal facilities in the near future, including a letter regarding the annual report offering large quantity generators a hard copy upon their request. Hard copies of this Revision "z" will also be made available to small quantity generators upon their request.

Mr. Ingram reviewed the steps necessary to administer the regulatory program in lieu of EPA. He explained that our regulations must be at least equivalent to EPA's

regulations in order to retain our State Authorization. Since we receive about \$2.2 million from EPA each year to operate the program in lieu of them, they come in from time to time to evaluate our program.

B. Revision “aa” Adoption Consideration

Mr. Ingram presented this revision as the annual update of our Hazardous Waste Regulations. A draft document has been on display at various venues across the state and is now on the Division Web Page. He discussed the various preliminary steps that brought us to this final revision, including public hearings, etc.

He then explained to the Board, each of the proposed changes, especially the contested parts to which comments were received. He reviewed the comments and the Department response. In addition, there were two people who wished to address the Board with regards to two separate issues of the Proposed Regulations. They were each given time to make comments.

Mr. Dwight Hinch, Co-Owner of Triad Environmental Consultants spoke in opposition to the Rule requiring all containers of hazardous waste be closed; even small quantities - not just volatile or ignitable hazardous waste. He believes the rule, as written, would apply also to a small container of iron filings. Mr. Hinch raised questions about the process used to go about these changes. He does not feel that using a regulatory change is needed instead of changing the enforcement policy. He gave several examples that he felt made his point.

Ms. Janet Evans of Eastman spoke on the issue of the proposed record keeping revision. The new regulation adopts the five-year rule or as required in the permit. Eastman is in the middle of being issued a new permit and it should be issued before these rules take effect. The old permit requires that records be kept for the life of the facility. My question is, could we delete “as required by the permit” or something like “whichever is shorter”?

After further discussion Mr. Burnett made a motion to accept the Rules as proposed with two exceptions:

1) the proposed requirements regarding open containers be changed, and that they be subject to further review by the normal rules review process; and

2) the records keeping requirement language be substituted with “five years, or as required by permit issued after the effective date of this rulemaking”.

The Motion was seconded by Mr. Donaldson. Roll call vote is as follows:

Mr. Barker - Absent
Ms. Boyd - Aye
Mr. Burnett - Aye
Ms. Bryant - Absent
Mr. Donaldson - Aye

Mr. Horner - Absent
Dr. Nail - Aye
Mr. O’Grady - Aye
Ms. Sloan - Aye
Ms. Williams - Aye

IV. Agreed/Consent Orders

A. Milan Express Company, Inc.

Attorney Max Fleischer gave a brief explanation, for the benefit of our new Board members, of the process for reaching each of these Agreed Orders. He then reviewed the Agreed Order in the case of Milan Express Company, Inc. He noted the three documents included in the packet; the summary of the agreed order, the agreed order itself, and the actual Director’s order that was issued in this case. Milan Express Company operates a central facility for a trucking fleet of general commodity carriers. They are a small quantity generator of hazardous waste.

The proposed agreed order assesses the damages and civil penalties at \$10,000. It also provides for slightly more than a 20% reduction in the amount of civil penalties imposed in this case in order to resolve it without the need for a trial.

After a brief review of the case Mr. Burnett moved to approve the agreed order as it was presented. Ms. Sloan seconded. It was unanimously approved.

B. North American Environmental Corporation

Attorney Ed Harris spoke with regards to an Agreed order amending the Commissioner’s order in the case of North American Environmental Corporation. He explained that this order is to apportion the costs; because there are a limited number

of potentially responsible parties (Dupont and the City of Chattanooga). The Department has found there are no more company records available in order to determine potential responsible parties

After some further discussion and questions answered, Mr. Burnett moved to adopt the Agreed Order. The Motion was seconded by Mr. Donaldson and unanimously approved by the Board.

C. Exide Technologies, Inc.

Mr. Ed Harris continued with the case of Exide Technologies, Inc. wherein he reviewed the reasons for the Notice of Violations and the Commissioner's Order. Exide appealed the Order and with subsequent inspections, the Division is satisfied that their spillage tank is no longer being used improperly. The Division offered the company a 25% reduction in the civil penalty assessed in the Commissioner's order, and the Respondent has agreed to pay a civil penalty in the amount of \$17,887.50.

There was discussion with the Board members and questions were answered. Ms. Sloan made the motion to approve. Seconded by Ms. Boyd. There was unanimous Board approval.

D. Snap-On-Tools

Mr. Steven Stout gave a summary in the case of Snap-On-Tools that operates a plant in Carter County near Elizabethton. He reviewed the violations found on inspection during January wherein the facility failed to keep the training and facility contingency plan updated, among other violations, and the penalties assessed. There was also discussion regarding the unique circumstances surrounding this case.

The company now being in compliance, Mr. Donaldson moved to approve the agreed order. Mr. Burnett seconded. All Board Members approved.

V. Other Business

A question was raised regarding the April Board meeting and whether we want to change our regular published date to coincide with the Solid Waste Conference in Gatlinburg on April 18-20.

A motion was made by Mr. Burnett to change the April meeting of the Solid Waste Disposal Control Board to the Tuesday before the Solid Waste Conference which would be April 17, 2007. Ms. Boyd seconded. All Board members were in favor.

Ms. Boyd announced the orientation session for all new members of regulatory boards for TDEC on Friday, January 5th. It is designed for new members, but is open to existing members as well. Information will be forthcoming.

Mr. Burnett made a motion to adjourn; Mr. Donaldson seconded; and all Board members agreed.

There being no further business, the meeting adjourned at 12:20 pm

SUBMITTED BY:

Mike Apple, Technical Secretary

Date

APPROVED BY:

**Jack O'Grady, Chairman
Solid Waste Disposal Control Board**

Date